

REMARKS

This Response to Office Action is being submitted in response to the Office action mailed on December 17, 2003 in Serial No. 10/613,406.

In the Office action, the Examiner has objected to the disclosure because the phrase "The invention" should be deleted. A marked up version and a clean copy of the abstract with the phrase "The invention" has been submitted herewith.

The Examiner rejected claims 1-14 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner stated that:

In claim 1, line 7 "the upright position" has no antecedent basis;

In claim 1, line 8 "the folded position has no antecedent basis;

In claim 2, line 3 prior to "one" insert –said–.

In claim 8, line 5 "the machine" has no antecedent basis;

In claim 8, line 7 "the upright position" has no antecedent basis;

In claim 8, line 8 "the folded position has no antecedent basis;

In claim 9, line 3 prior to "one" insert –said–.

The applicant has amended each and every claim above to conform to the Examiner's requirements.

The Examiner rejected claim 15 under 35 U.S.C. 102(b) as being anticipated by Maurer et al. According to the Examiner, Maurer et al. discloses in figures 1-8 a pivoting

handle and control arrangement for a vacuum cleaner including a pivoting handle having an upper section 10 and a lower section 12; and actuating rod 66 passing through the upper section; a button 68 located at one end of the actuating rod; and a switch 58 located in the lower section. When the button is pressed, the actuator rod pushes the switch. However, with all due respect to the Examiner, applicant does not agree. The handle in the Maurer et al. patent (owned by a common assignee) of a two piece construction consisting of an upper section 10 and lower section 12 for ease of assembly. The actuating rod 66 passes through the upper section and connects to a lower connector rod 64 passing through the lower section 12. The switch 58 is not located in the lower section 12 as is required by claim 15. The switch is located in the cleaner foot. Moreover, the handle in Maurer pivots with respect to the foot in contrast to the subject machine where the upper portion of the handle pivots with respect to the lower portion of the handle. The handle is pivoted in this manner for convenience in transporting and storage and the cleaner in Maurer et al. does not have this feature. Thus, for at least this reason, the rejection of claim 15 should be withdrawn.

The Examiner stated that claims 1 and 8 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, as set forth in the Office action. Applicant has amended claims 1 and 8 to meet the Examiner's requirements and the rejections of claims 1 and 8 should be withdrawn.

The Examiner stated that claims 2-7 and 9-14 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in the Office

action and to include all of the limitations of the base claim and any intervening claims. Applicant has amended claims 2 and 9 to overcome the rejections under 35 U.S.C. 112, second paragraph. However, applicant argues that claims 2-7 and 9-14, which depend from claims 1 and 8, should also be allowable since claims 1 and 8 are allowable for the reasons set forth above.

It is believed that above arguments and amendment places the present application in condition for allowance. Therefore, it is respectfully requested that this application be examined and an appropriate Office action be issued.

RESPECTFULLY SUBMITTED

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